



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

COOS BAY DISTRICT OFFICE

1300 AIRPORT LANE, NORTH BEND, OR 97459

Web Address: <http://www.blm.gov/or/districts/coosbay> E-mail: OR_CoosBay_Mail@blm.gov

Telephone: (541) 756-0100 Toll Free: (888) 809-0839 Fax: (541) 751-4303



5400/1792 (OR-120)

OR120-08-35

EA OR128-03-17

October 22, 2007

Dear Concerned Citizen:

Attached is a copy of the Decision Documentation for the Elk Creek CT Timber Sale, OR120-08-35. The Elk Creek CT Timber Sale is a portion of Alternative III of the East Fork Coquille Environmental Assessment (EA). This Decision Documentation will also be posted on the District Internet site: <http://www.blm.gov/or/districts/coosbay>.

In accordance with Forest Management Regulations at 43 CFR 5003.2, the decision for this timber sale will not become effective until the Notice of Sale is published in a newspaper of general circulation in the area where the lands affected by decision are located. For this project, the Notice of Sale will be published in *The World* newspaper.

Sincerely,

Teresa A. Collier(acting)

Paul T. Flanagan
Myrtlewood Field Manager

Attachment:

Decision Documentation Elk Creek CT Timber Sale



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1792(OR-128)
EA # OR128-03-17
East Fork Coquille EA
OR120-TS08-35
Elk Creek CT Timber Sale

DECISION DOCUMENTATION

**For the
Elk Creek CT Timber Sale
East Fork Coquille EA
EA # OR128-03-17**

Background:

The Elk Creek CT Timber Sale (OR128-TS08-35) is a portion of Alternative 3 (Proposed Action) of the East Fork Coquille EA (EA # OR128-03-17) which concluded with a Finding of No Significant Impact (FONSI) dated 6/28/2005. The proposed action in the EA included thinning approximately 2,230 acres of young conifer stands in the Matrix and Riparian Reserve land use allocations, restoring approximately 73 acres of alder-dominated stands to mixed conifer, regeneration harvesting 467 acres of stands between 60 and 180 years old, constructing 6.7 miles of new road, renovating or improving 14.6 miles of existing roads, and decommissioning 26.2 miles of road. The project areas analyzed in the EA are located within the Matrix and Riparian Reserve land use allocations in:

Section 7, T. 28 S., R.8 W.;
Sections 25-27, 34-35, T. 27 S., R.9 W.;
Sections 1, 3, 11, 12, 13, 15, 17, T. 28 S., R.9 W.;
Sections 15, 17, 23, 25; T. 28 S., R. 10 W.;
Section 35, T. 27 S., R.11 W.;
Sections 2, 7, 13, 16, 17, 19, 23, 27, 29, 32, 33, 35 T. 28 S., R. 9 W.;
Sections 1, 3, 5 of T. 29 S., R.11 W. (Willamette Meridian).

The Elk Creek CT Timber Sale would implement commercial thinning (CT) treatments on 187 acres and Density Management (DM) thinning on 117 acres, all less than 80 years of age. In addition, the sale would require construction of 0.7 miles of new road, renovation of 22.2 miles of existing roads, and decommissioning of 2.9 miles of existing roads.

The Elk Creek CT areas to be treated are located within Matrix and Riparian Reserve land use allocations in:

Sections 23 and 25 of T. 28 S., R.10 W.
Sections 7, 17, 19, 23, & 35 of T. 28 S., R. 11 W., (Willamette Meridian).

The following tables show the relationship between the Elk Creek CT Timber Sale units and the corresponding East Fork Coquille EA units, and between timber sale harvest and road work compared to EA harvest and road work.

Table 1 – Comparison of unit numbering and treatment acres for EA and timber sale.

Elk Creek CT Unit Number	EA Unit Number	EA Acres	Actual acres
1	61	6	8
2	62	17	22
3	63	10	12
4	64	24	17
5	65	14	13
6	66	33	27
7	67	10	15
8	68	34	29
9	69	34	22
10	70	53	47
11	55	33	24
12	56	87	68
		355	304

Table 2 – Comparison of harvest acres and road miles for EA and timber sale. EA estimates of acres of forest treatment and miles of road treatment were developed from GIS coverages used in the original EA. Estimates were predicted to change slightly during implementation (EA # OR128-03-17, pg. 7).

	Commercial Thinning (Acres)	Density Management (Acres)	New Road Construction (Miles)	Road Improvement (Miles)	Road Renovation and Maintenance (Miles)*	Road Decommissioning (Miles)
EA Estimate	184	171	0.9	0.4	35.5	2.7
Timber Sale	187	117	0.7	0.0	22.2	2.9

* For comparison the “EA estimate” includes both the renovation and haul route maintenance estimated in the EA for this sale. The “Timber Sale” total equals the renovation included in the timber sale contract. In the timber sale contract there is no “haul route maintenance” category for road work so roads only receiving routine maintenance are included in the renovation estimates.

The EA is tiered to the *Final - Coos Bay District Resource Management Plan and Environmental Impact Statement* (RMP) and its *Record of Decision*, as supplemented and amended, which is in conformance with the *Final Supplemental Environmental Impact Statement on Management of Habitat for the Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl* (i.e. Northwest Forest Plan [NFP]) and its *Record of Decision* as supplemented and amended. The relevant watershed analysis (East Fork Coquille Watershed Analysis, May 2000) recently received a minor revision, and the EA references have been updated to reflect the revised watershed analysis.

Actions described in the EA are in conformance with the Aquatic Conservation Strategy (ACS) Objectives of the Northwest Forest Plan (USDA and USDI 1994a). A detailed analysis of the consistency of the action alternatives with the ACS is contained in Section B of the EA Analysis File.

The U.S. Fish and Wildlife Service concurred that the proposed action was not likely to adversely affect wildlife species or critical habitat listed under the Endangered Species Act (Concurrence Letter No. 1-15-05-I-0065). Project design criteria identified during consultation have been incorporated into the proposed action. The portion of the EA being implemented through the Elk Creek CT timber sale will have no effect on Essential Fish Habitat, as defined in the Magnuson-Stevens Act. The estimated environmental effects contained in the EA are based on research, professional judgment, and the experience of the interdisciplinary team. No significant adverse impacts are expected on (1) Air Quality, (2) Areas of Critical Environmental Concern, (3) Cultural Resource Values, (4) Prime or Unique Farmland, (5) Flood Plains, (6) Native American Religious Concerns, (7) Hazardous Materials/Solid Waste, (8) Threatened or Endangered Species, (9) Water Quality, (10) Wetlands and Riparian Zones, (11) Wild and Scenic Rivers, (12) Wilderness Values, (13) Noxious Weeds, (14) Port Orford cedar, (15) ACS, (17) Energy production, transmission, or conservation, or (18) Unresolved conflicts concerning alternative uses of available resources.

Public Comments:

The general public was informed of the planned EA through a letter (7/14/2003) to those on the Resource Area's mailing list which included adjacent landowners and the others who had requested scoping notices of timber sale EAs. An announcement was also posted on the District's Internet site, <http://www.or.blm.gov/coosbay> and in a Legal Notice in The World newspaper 7/8/2003 requesting comments for scoping. The public was informed of the EA and FONSI through a direct notification (6/28/2005) and via a published Legal Notice in The World newspaper (6/29/2005). The district internet site was not available to the public during the comment period due to a court order affecting all Department of Interior agencies. Forty-eight public comments were received. Public comments about the EA generally fell into three categories: 1) Items addressed and covered by the Final-Coos Bay District Resource Management Plan and Environmental Impact Statement and its Record of decision (RMP-ROD)(USDI-BLM, 1995) 2) items beyond the scope of the site specific EA, and 3) items already fully covered and considered in the EA. The ID Team and I determined that none of the issues raised during the comment period warrant a revision to the EA; therefore, the FONSI is still appropriate.

Decision:

It is my decision to implement the Proposed Action Alternative in the East Fork Coquille EA (OR128-03-17) as it applies to the *Elk Creek CT* Timber Sale shown in Table 1. These units will now be referred to as the Elk Creek CT Timber Sale (OR120-TS08-35). This action consists of twelve units totaling 304 acres. Approximately one hundred eighty seven (187) acres consist of commercial thinning in the Matrix LUA and one hundred seventeen (117) acres of the sale consist of density management thinning in the Riparian Reserve LUA.

Road management activities associated with this timber sale consist of construction of roughly 0.7 mile of new road, renovation of 22.2 miles of existing roads, and decommissioning of 2.9 miles of roads. Actual lengths of new road construction are roughly comparable to those predicted in the EA (Table 2). The large difference in the road renovation is due to the fact that EA unit 56 was originally anticipated to be hauled down the Rock Creek Mainline adding roughly 13 miles of haul route maintenance. Otherwise depicted differences in Table 2 represent the difference between GIS estimates of road length and actual lengths. Road alignment (location) and effects would be roughly the same as those analyzed in the EA for these roads, and would be fully within the scope of the EA.

This project will produce about 4007 thousand board feet of timber through commercial thinning (2465 mbf) and density management thinning (1542 mbf). The timber sale provides a quantity of sustainable forest products contributable to the Allowable Sale Quantity (ASQ) while incorporating design features that minimize effects to special status species and protects ecosystem function. The timber sale will accomplish needed maintenance and improvement of the transportation network, provide temporary access within the units for harvest activities, and effect the decommissioning of roads not needed for future management.

This project will enhance and restore structural diversity in Riparian Reserves through density management on 117 acres. Design features include retaining existing snags and downed logs and creating new snags and downed logs. Density management thinning will remove a portion of the stands to provide room for the remaining trees to maintain or increase crown and diameter growth. Thinned stands within portions of the Riparian Reserves associated with this project are more likely to achieve the future stand conditions that contribute to meeting the Aquatic Conservation Strategy (ACS) objectives.

The Bureau of Land Management (BLM) is aware of the August 1, 2005, U.S. District Court order in Northwest Ecosystem Alliance et al. v. Rey et al. which found portions of the *Final Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines* (January, 2004) (EIS) inadequate. Subsequently in that case, on January 9, 2006, the Court ordered:

- set aside the 2004 Record of Decision *To Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines in Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern spotted Owl* (March, 2004) (2004 ROD) and
- reinstate the 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measure Standards and Guidelines* (January, 2001) (2001 ROD), including any amendments or modifications in effect as of March 21, 2004.

The BLM is also aware of the November 6, 2006, Ninth Circuit Court opinion in Klamath-Siskiyou Wildlands Center et al. v. Boody et al., No. 06-35214 (CV 03-3124, District of Oregon). The court held that the 2001 and 2003 Annual Species Reviews (ASRs) regarding the red tree vole are invalid under the Federal Land Policy and Management Act (FLPMA) and National Environmental Policy Act (NEPA) and concluded that the BLM's Cow Catcher and Cotton Snake timber sales violate federal law.

This court opinion is specifically directed toward the two sales challenged in this lawsuit. The BLM anticipates the case to be remanded to the District Court for an order granting relief in

regard to those two sales. At this time, the ASR process itself has not been invalidated, nor have all the changes made by the 2001-2003 ASR processes been vacated or withdrawn, nor have species been reinstated to the Survey and Manage program, except for the red tree vole. The Court has not yet specified what relief, such as an injunction, will be ordered in regard to the Ninth Circuit Court opinion. Injunctions for NEPA violations are common but not automatic.

We do not expect that the litigation over the Annual Species Review process in Klamath-Siskiyou Wildlands Center et al. v. Boody et al will affect this project, because the development and design of this project exempt it from the Survey and Manage program. In Northwest Ecosystem Alliance et al. v. Rey et al the U.S. District Court modified its order on October 11, 2006, amending paragraph three of the January 9, 2006 injunction. This most recent order directs:

"Defendants shall not authorize, allow, or permit to continue any logging or other ground-disturbing activities on projects to which the 2004 ROD applied unless such activities are in compliance with the 2001 ROD (as the 2001 ROD was amended or modified as of March 21, 2004), except that this order will not apply to:

- a. Thinning projects in stands younger than 80 years old;
- b. Replacing culverts on roads that are in use and part of the road system, and removing culverts if the road is temporary or to be decommissioned;
- c. Riparian and stream improvement projects where the riparian work is riparian planting, obtaining material for placing in-stream, and road or trail decommissioning; and where the stream improvement work is the placement large wood, channel and floodplain reconstruction, or removal of channel diversions; and
- d. The portions of project involving hazardous fuel treatments where prescribed fire is applied. Any portion of a hazardous fuel treatment project involving commercial logging will remain subject to the survey and management requirements except for thinning of stands younger than 80 years old under subparagraph a. of this paragraph."

On July 25, 2007, the Under Secretary of the Department of Interior signed a new Survey and Manage Record of Decision¹ that removed the survey and manage requirements from all of the BLM resource management plans (RMPs) within the range of the northern spotted owl. In any case, this project falls within at least one of the exceptions listed in the modified October 11, 2006 injunction. All proposed EA units in the Elk Creek CT Timber Sale are younger than 80 years old. All culvert replacements would be on roads that are in use and part of the road system. Thus, the Elk Creek CT Timber Sale would meet **exemption a** and **exemption b** above. Therefore, the decision to eliminate Survey and Manage is effective on this project.

Habitat was present for some special status bryophyte, lichen, and vascular plant species. On-site botany surveys did not find any special status species nor were any survey and manage species encountered (based on species included in the 2003 Annual Species Review).

Amendments to the 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measure Standards and Guidelines* through March 21, 2004 resulted in movement of most wildlife species to the Special

¹

Complete Title: Record of Decision To Remove the Survey and Manage Mitigation Measure Standards and Guidelines from Forest Service Land and Resource Management Plans Within the Range of the Northern Spotted Owl

Status (SS) Species Program. Surveys for non-listed SS species are discretionary, and the Myrtlewood Resource Area has not performed formal surveys for any non-listed SS species.

Rationale For Decision:

I am choosing to offer the *Elk Creek CT* Timber Sale for the following reasons:

- It meets the purpose and need for action described in the EA and in the *Final - Coos Bay District Resource Management Plan and Environmental Impact Statement* (RMP) and its *Record of Decision*, as supplemented and amended.
- It is consistent with the RMP objectives and management directions for the Matrix LUA, Riparian Reserve LUA, and roads.
- It is consistent with the Proposed Action (Alternative 3) as described in the EA.
- The No Action alternative fails to address the purpose and need for action and does not meet the management objectives.

Administrative Remedies:

In accordance with Forest Management Regulations at 43 CFR 5003.2, the decision for this timber sale will not become effective until the Notice of Sale is published in a newspaper of general circulation in the area where the lands affected by the decision are located. For this project, the Notice of Sale will be published in *The World* newspaper.

Decision Recommended by:

<u>Dale Stewart(acting)</u>	<u>10/22/2007</u>	<u>Carolyn Palermo(acting)</u>	<u>10/22/2007</u>
Dennis Turowski	Date	Teresa Stutesman	Date
Natural Resource		Natural Resource	
Staff Administrator		Staff Administrator	

Decision Approved by:

<u>Teresa A. Collier</u>	<u>10/22/2007</u>
Paul T. Flanagan	Date
Myrtlewood Field Manager	

Attachments:

- 1) Timber Sale Prospectus Map (Exhibit A. 6 pages)

TIMBER SALE CONTRACT MAP
USDI-BLM COOS BAY DISTRICT

T. 28 S., R. 10 W., Secs. 23 & 25 Will. Mer.

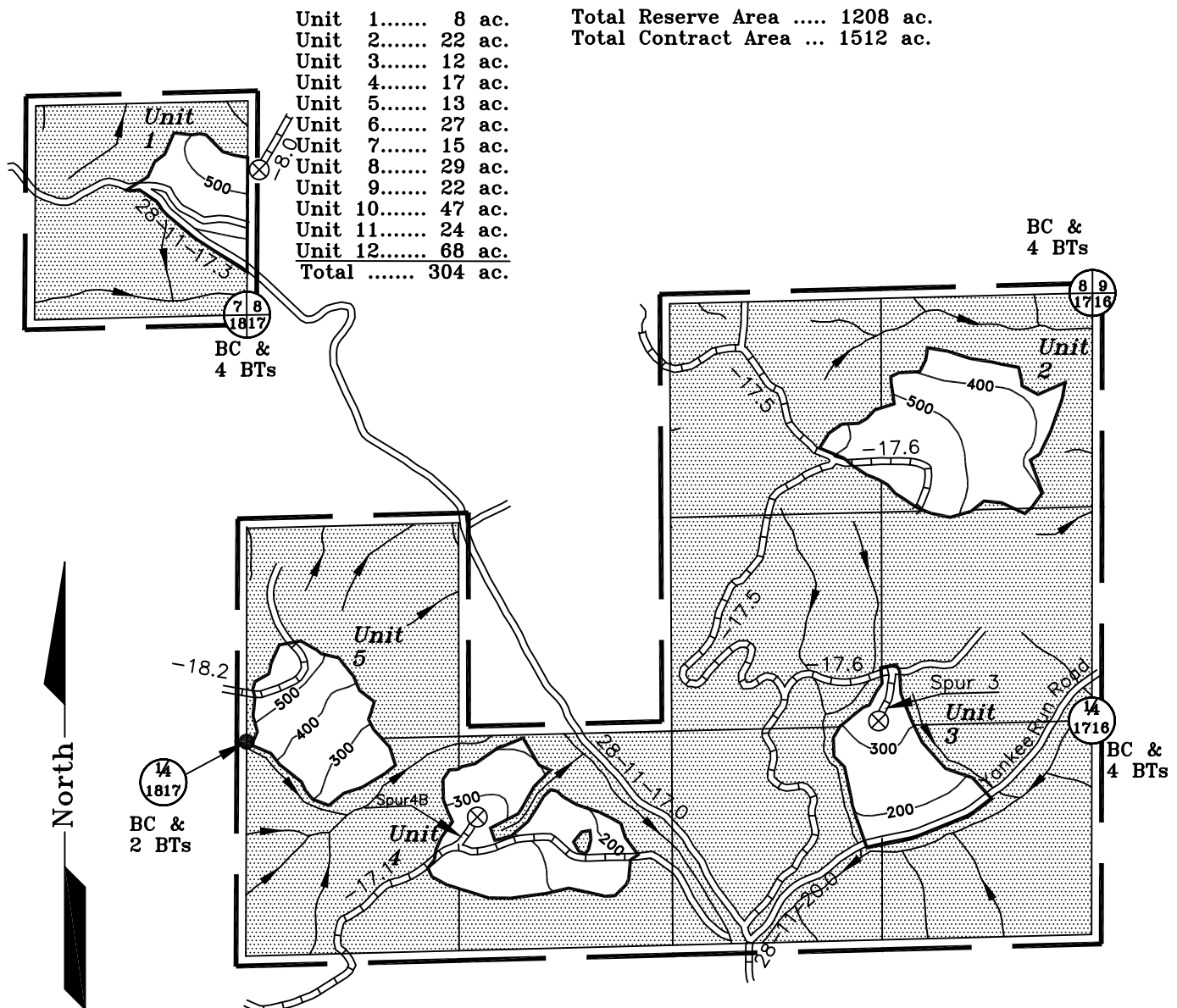
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








SALE NO. 08-35

EXHIBIT A

Page 1 of 5

ELK CREEK CT



	Partial Cut Unit		Road to be Renovated
	Boundary of Cutting Area, Blazed, Posted and Painted		Proposed Landing
	Boundary of Contract Area		Stream Channel
	Existing Road		Corner Found
	Road to be Constructed		

TIMBER SALE CONTRACT MAP
USDI-BLM COOS BAY DISTRICT

T. 28 S., R. 10 W., Secs. 23 & 25 Will. Mer.

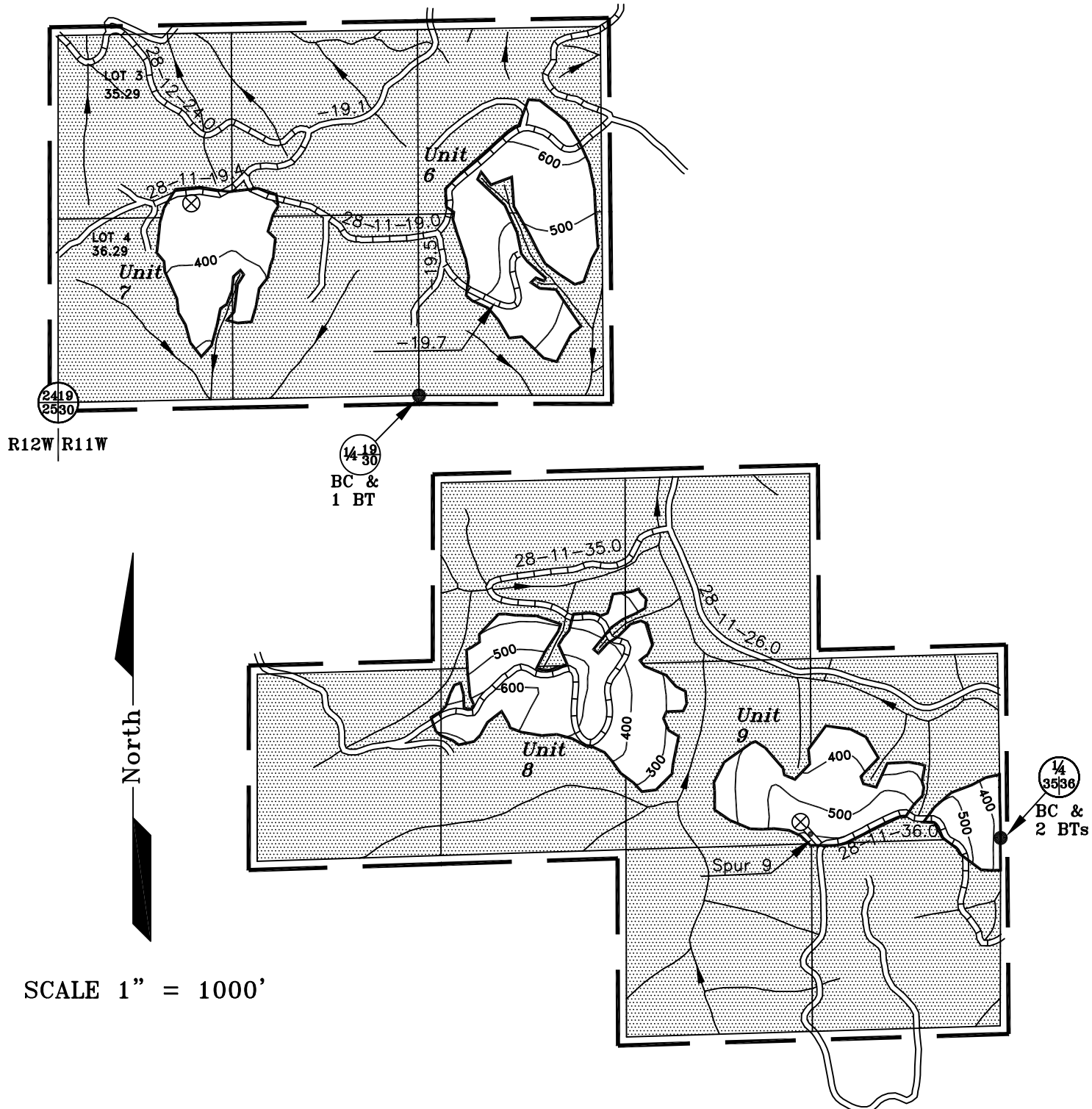
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SALE NO. 08-35

EXHIBIT A

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ELK CREEK CT



TIMBER SALE CONTRACT MAP
USDI-BLM COOS BAY DISTRICT

T. 28 S., R. 10 W., Secs. 23 & 25 Will. Mer.

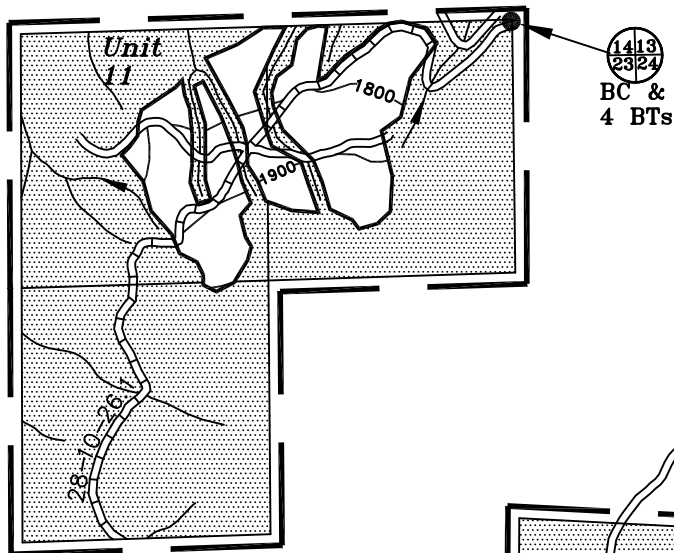
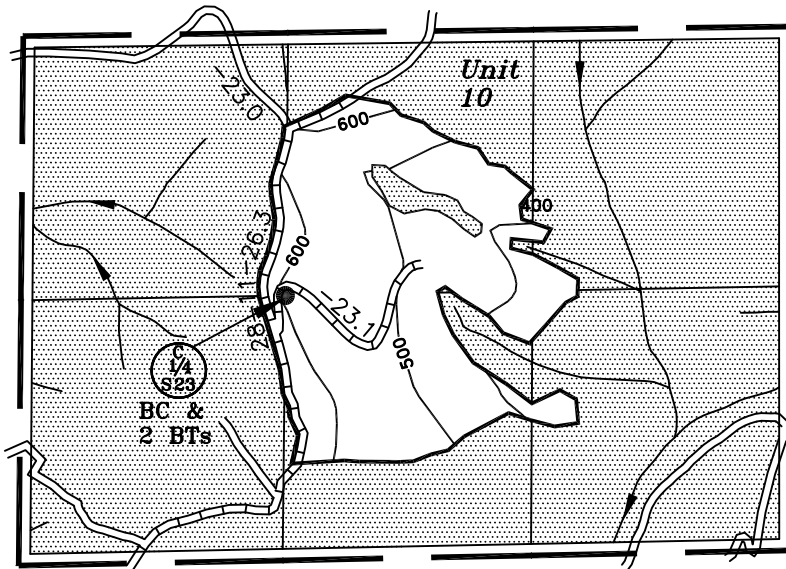
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SALE NO. 08-35

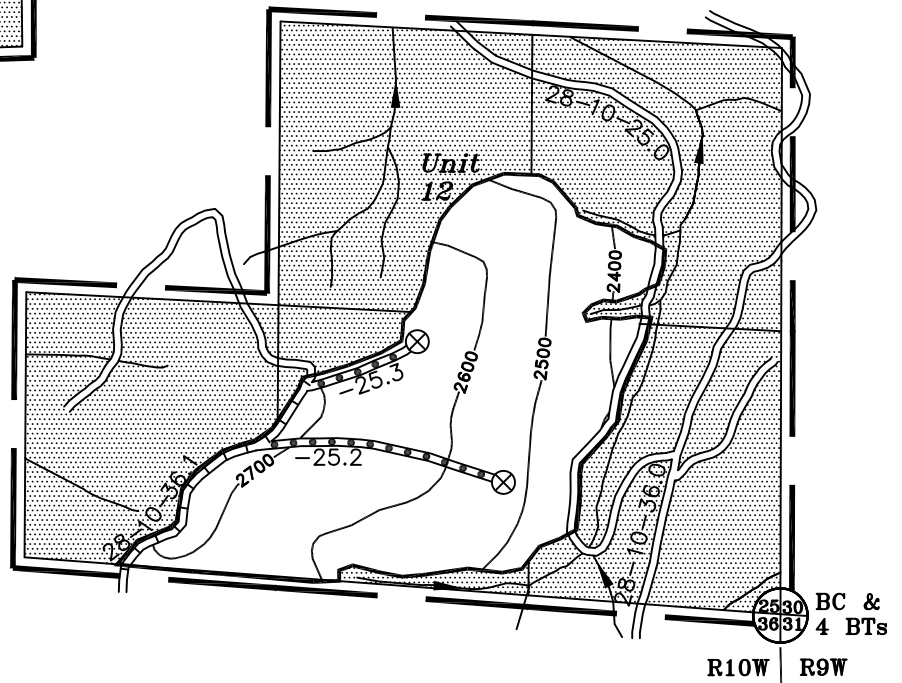
EXHIBIT A

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ELK CREEK CT



SCALE 1" = 1000'



R10W R9W

TIMBER SALE CONTRACT MAP
USDI-BLM COOS BAY DISTRICT

T. 28 S., R. 10 W., Secs. 23 & 25 Will. Mer.

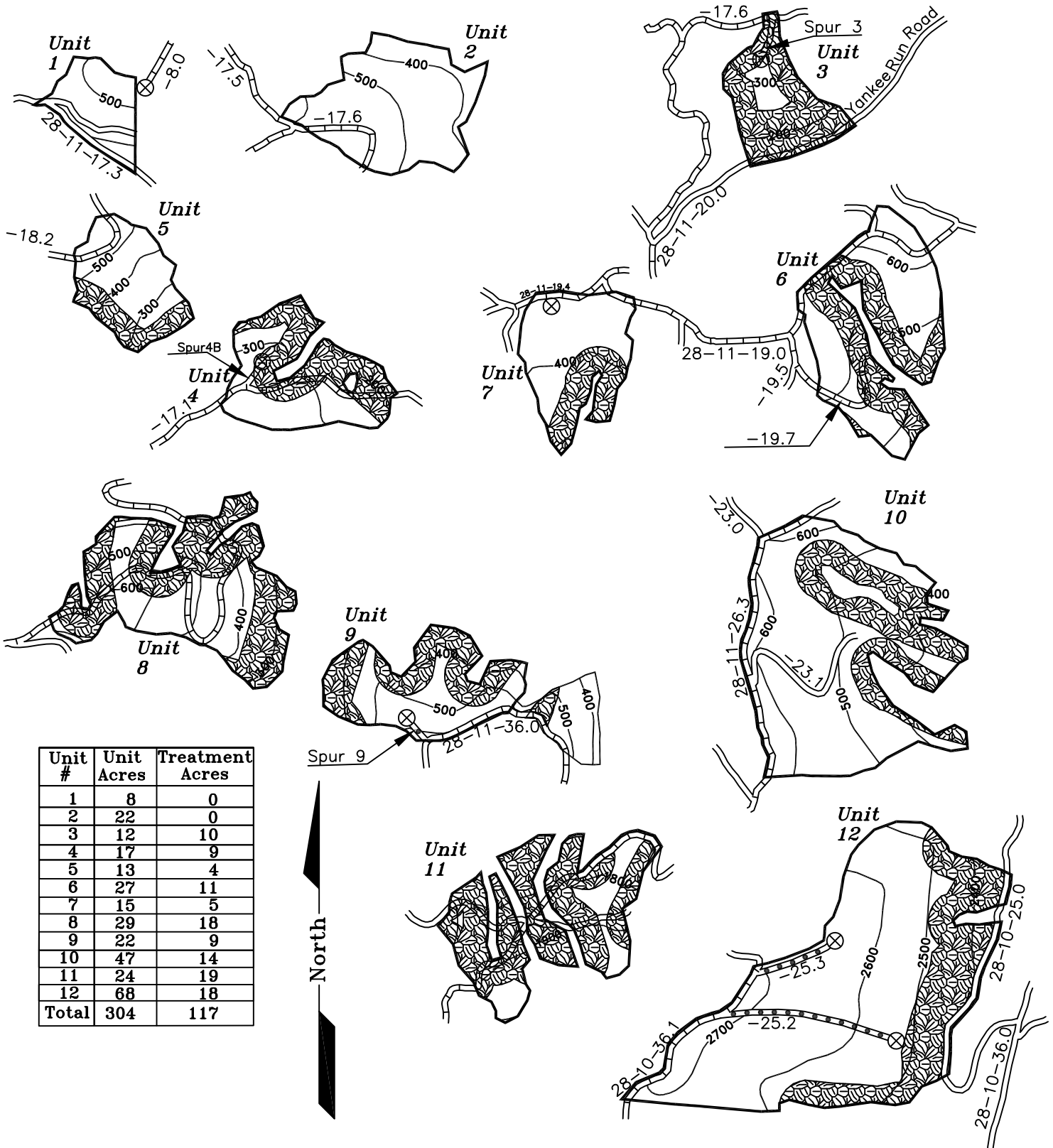
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SALE NO. 08-35

EXHIBIT A

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ELK CREEK CT



SCALE 1" = 1000'



Snag & Down Wood Treatment Area

TIMBER SALE CONTRACT MAP
USDI-BLM COOS BAY DISTRICT

T. 28 S., R. 10 W., Secs. 23 & 25 Will. Mer.

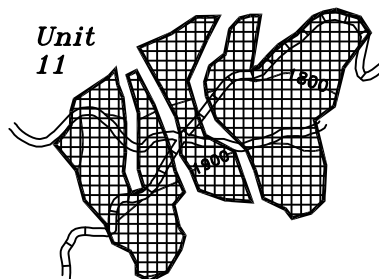
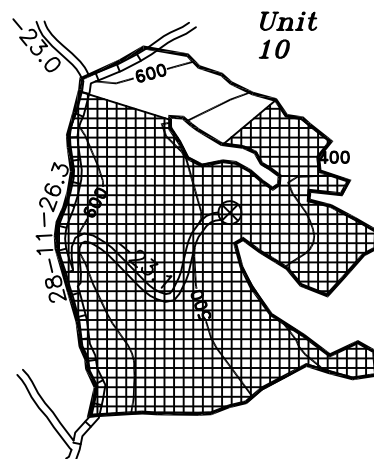
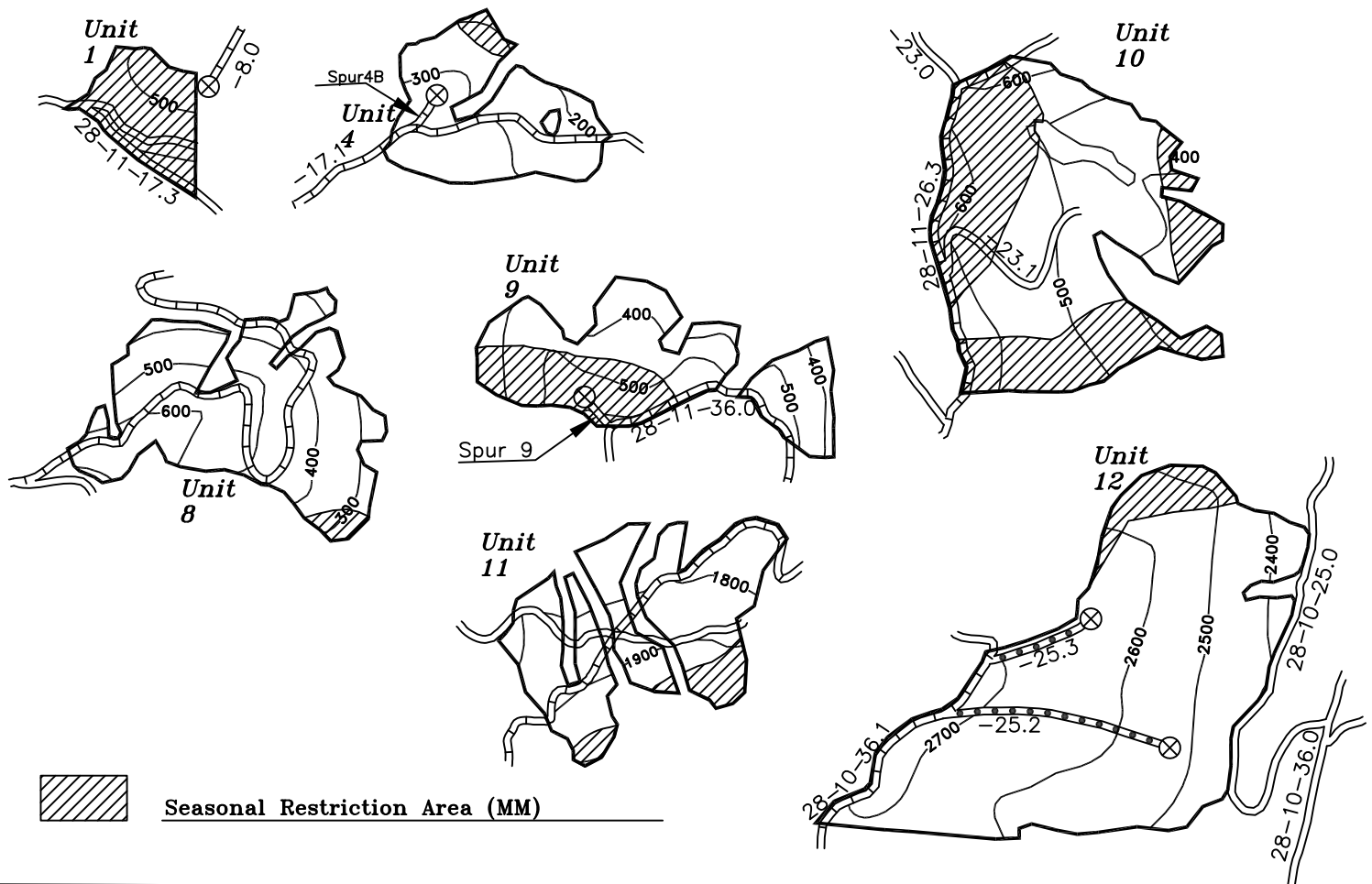
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SALE NO. 08-35

EXHIBIT A

Page 5 of 5

ELK CREEK CT



SCALE 1" = 1000'



Ground base Area	Unit 10.....	42 ac.
	Unit 11.....	24 ac.
	Total	66 ac.

TIMBER SALE CONTRACT MAP
USDI-BLM COOS BAY DISTRICT

T. 28 S., R. 10 W., Secs. 23 & 25 Will. Mer.

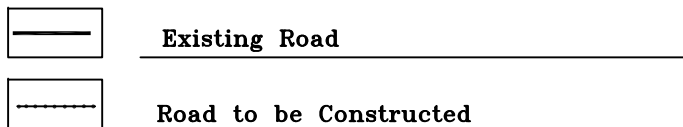
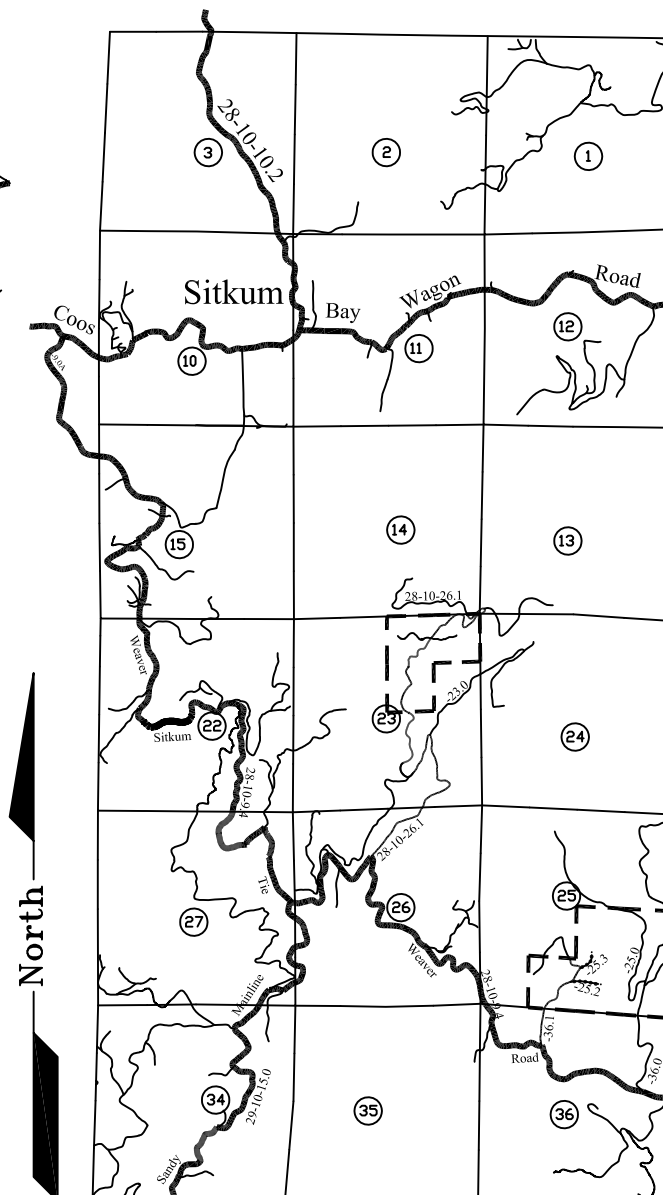
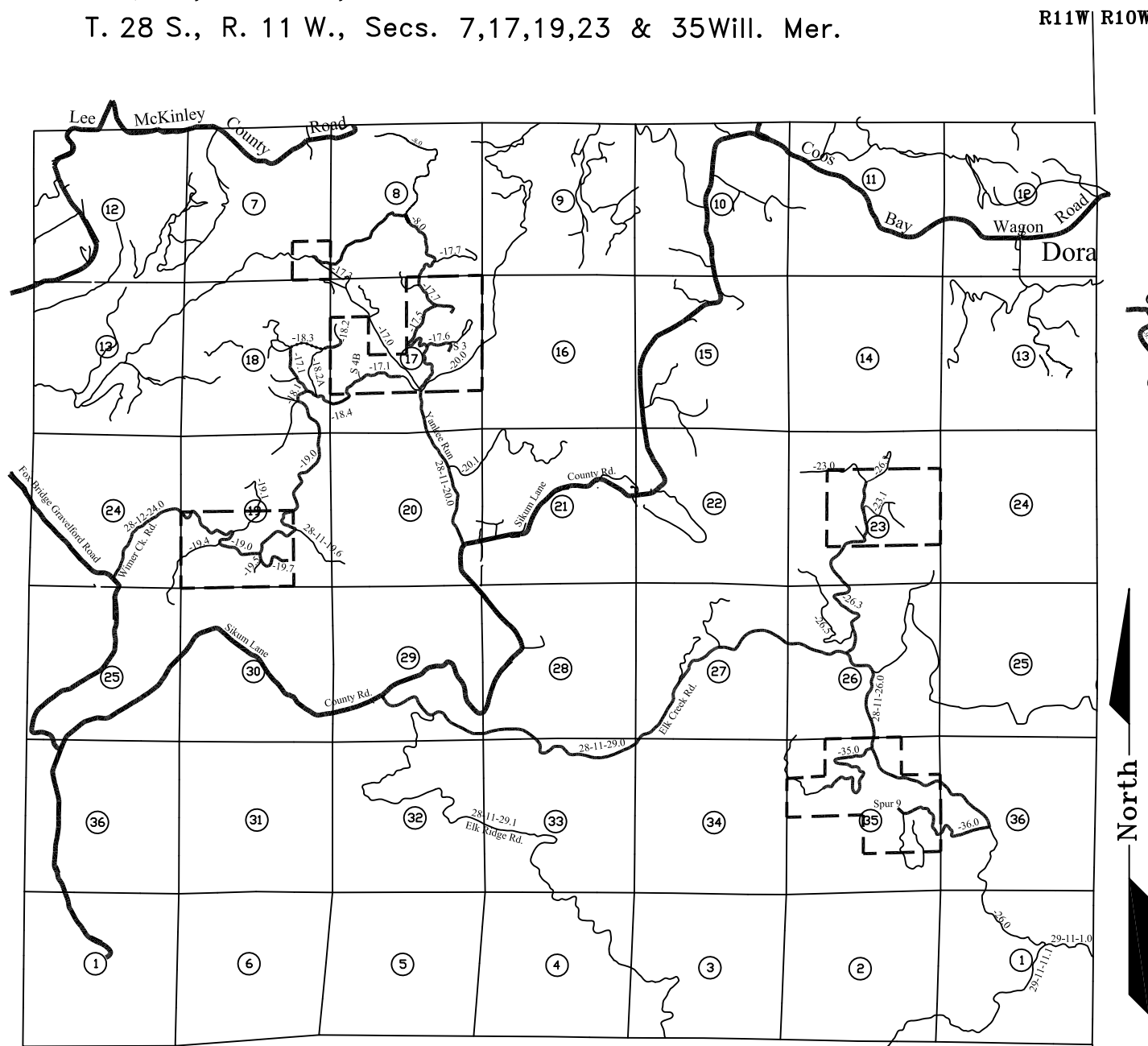
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SALE NO. 08-35

EXHIBIT A-1

Page 1 of 1

ELK CREEK CT



SCALE 1" = 1 Mile